REMARKS

This is in response to the Office Action mailed October 30, 2008. Claims 1-10 were pending in that action, and the Examiner rejected all of the claims. With the present response, claim 3 is amended, claim 10 is cancelled, claims 11-12 are new, and the remaining claims are unchanged. Consideration and allowance of all pending claims are respectfully solicited in light of the following remarks.

35 USC §101 Rejection

On page 2 of the Office Action, the Examiner rejected claim 10 under 35 USC §101. With the present response, claim 10 has been cancelled. Applicant respectfully requests that the §101 rejection be withdrawn.

35 USC §102 Rejections

On page 3 of the Office Action, the Examiner rejected all of the claims under 35 USC §102 as being anticipated by Leymann et al. U.S. Pat. No. 6,009,405 (hereinafter "Leymann"). In order for an Examiner to reject a claim under §102, the Examiner must show that all elements of the claim are found in a single reference, and that the elements in the single reference are arranged as is required by the claim. MPEP 2131. As is discussed below, Applicant respectfully contends that Leymann does not disclose all elements of the claims and that Leymann does not disclose all elements arranged as is recited by the claims. Therefore, Applicant respectfully contends that the claims are not anticipated by Leymann and respectfully requests that the rejections be withdrawn.

Claim 1:

Claim 1 recites in part "passing a logical transaction context to an activity factory to instantiate a business activity." On page 3 of the Office Action, the Examiner stated that this limitation is disclosed by Leymann column 7, lines 59-67 and column 17, lines 1-5. Applicant respectfully disagrees.

Leymann column 7, lines 59-67 discloses passing an atomic-sphere-transaction-context to an activity when invoking the activity to determine a potential existence of an atomic-sphere-transaction-context. Assuming for the sake of argument that "an atomic-sphere-transaction-context" discloses "a logical context" and that "an activity" discloses "a business activity," Leymann column 7, lines 59-67 still does not disclose the claim limitation. Leymann column 7, lines 59-67 does not disclose an activity factory. It certainly does not disclose passing any sort of context to an activity factory.

Leymann column 17, lines 1-5 and its preceding lines in column 16, lines 66-67 similarly only disclose passing a context to an activity. They do not disclose an activity factory or passing a context to an activity factory.

For at least the reasons discussed above, Applicant respectfully contends that Leymann does not disclose all elements of claim 1 and that Leymann therefore does not anticipate claim 1. Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

Claim 2:

Claim 2 recites in part "passing the logical transaction context to the activity factory to generate an additional business activity." On page 4 of the Office Action, the Examiner stated that this limitation is disclosed by Leymann FIG. 5, column 17, lines 15-25, column 5, lines 55-60, column 17, lines 60-67, and columns 18, lines 1-14. Applicant respectfully disagrees.

As was previously mentioned in the claim 1 discussion, Applicant respectfully contends that Leymann column 7, lines 59-67 and column 17, lines 1-5 do not disclose an activity factory. The additional sections of Leymann that the Examiner cited in rejecting claim 2 similarly do not disclose an activity factory. Also, if claim 2 is read in context (i.e. read as if it was written in independent form), it recites passing the logical transaction context to the activity factory two times. Leymann does not disclose this feature.

For at least the reasons discussed above, Applicant respectfully contends that claim 2 is not anticipated by Leymann, and respectfully requests that the rejection be withdrawn and the claim allowed.

Claim 8:

Claim 8 recites in part that "the business activity is instantiated by a static process." Applicant has reviewed Leymann and does not believe that it discloses this limitation. For example, the word "static" is not in Leymann. Although Applicant knows that the word "static" does not need to be in a reference to disclose the limitation, "a static process" is a basic term and it seems unlikely that another characterization would be used.

Additionally, in rejecting the claim on pages 3 and 5 of the Office Action, the Examiner did not provide any support for his rejection. The Examiner did not identify any particular section of Leymann that discloses the limitation. Applicant therefore respectfully contends that the rejection is improper.

For at least the reasons discussed above, Applicant respectfully contends that claim 8 is not anticipated by Leymann, and respectfully requests that the rejection be withdrawn and the claim allowed.

Claims 3-7 and 9:

Claims 3-7 and 9 are dependent claims. Claim 3 has been amended to correct a typographical error. Applicant respectfully contends that the claims are allowable at least based on their dependence upon patentable independent claim 1. Applicant respectfully requests that the rejections be withdrawn and the claims allowed.

New Claims

Claims 11 and 12 are new claims. They are essentially claims 1 and 2 rewritten in a slightly different format. On page 4 of the Office Action, the Examiner stated that "[a]s to the term 'to instantiate a business activity', this is not a positively recited method step but, rather as intended use of the previous step/function." Applicant is not clear what the Examiner meant by this comment. Applicant suspects that the Examiner is using his contention to not give any

patentable weight to the limitation. Applicant respectfully disagrees with the Examiner's contention and his statement of the law.

A claim limitation cannot be denied patentable weight simply because it is intended. Hoffer v. Microsoft Corporation, 74 USPQ2d 1483-1484 (Fed. Cir. 2005). A claim limitation that is an integral part of the claimed process must be given patentable weight. Id. A claim limitation can only be denied patentable weight if it simply suggests or makes optional steps that do not need to be performed. MPEP 2111.04.

In claim 1, the "to instantiate a business activity" limitation is not an optional step. It is an essential part of the claim. This is clear by looking at the second step of the method that recites "executing at least one event associated with the business activity." If the business activity is never instantiated in the first step, the second step is not possible. This means that the "to instantiate a business activity" is an essential limitation to the claim and must be given patentable weight.

Regardless, in claims 11 and 12, the "to instantiate" limitation has been rewritten such that the claims positively recite the steps of "instantiating." Applicant respectfully contends that even if the Examiner's contention about the "to instantiate" limitation was correct, that the Examiner must give patentable weight to the limitations recited in claims 11 and 12.

Applicant respectfully contends that claims 11 and 12 are patentable for at least the same reasons as claims 1 and 2, and Applicant respectfully requests that the Examiner allow the claims.

Conclusion

It is respectfully submitted that claims 1, 2, 8, and 11-12 are patentably distinguishable over the cited reference. It is also respectfully submitted that dependent claims 3-7 and 9 are patentable at least based on their dependence upon the patentable independent claim 1. Accordingly, Applicant respectfully submits that the entire application is now in condition for allowance. Reconsideration and favorable action are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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